

Purchasing Property in Costa Rica

About Investing in Costa Rica

The natural beauty, pleasant climate, safe political environment, and friendly people of Costa Rica, are luring investors from around the globe. When comparing Costa Rica property prices on a global level, one finds top quality coastal properties in the best locations of Costa Rica to still be the safest investment. Professional advice and assistance from a knowledgeable and professional Real Estate Broker or Attorney, is the best assurance of a smart decision and a safe investment.

The acquisition of real estate is one of the most significant investments a person makes during his or her lifetime. It can be one of the most stressful. In foreign countries such as Costa Rica, the normal stress of the purchasing process is sometimes compounded with other risk factors, such as language barriers and unfamiliarity with local laws and procedure. That said, foreigners do legally and successfully purchase property in Costa Rica. In fact, Costa Rica offers buyers many types of real estate products including houses, condominiums, time-shares, farms, finished lots and beachfront property. If you are considering a real estate purchase in Costa Rica, the following guide is designed to help you navigate your way through the real estate buying process.

- I. The Purchasing Process**
- II. Ownership of Land**
- III. Land Records & Legal Vocabulary**
- IV. Property Taxes & Closing Costs**
- V. Purchase Contracts**
- VI. Financing**
- VII. After the Sale**

I. The Purchasing Process

Once a buyer has seen a property of interest, the next step is to understand what the process of acquiring the property may entail. The following are the basic steps that a purchaser follows when buying a property.

Step 1: Sign a Purchase/Sale Contract with seller

Step 2: Deposit funds into escrow

Step 3: Title research performed and Title Commitment issued (review if property is free and clear of title defects)

Step 4: Closing–Execution of Transfer Deed, Endorsement of Shares and/or Mortgage Deed and disburse funds. Title by Deed has additional costs.

Step 5: Register new owner with Public Registry

Step 6: Receive official Title Insurance Policy

II. Ownership of Land

Costa Rica's laws and constitution, based on a well-developed tradition of Democratic government, include equal rights to foreigners and locals with regards to property ownership. In other words - you can own it in your name, and the Costa Rican Constitution guarantees you the same equal rights as a Costa Rican. These rights in

property ownership are unique to Costa Rica, where neither citizenship, nor residency, nor even a presence in the country is required for land ownership. In fact, there are almost no restrictions to the ownership of land in Costa Rica, with the exception of a few direct beachfront zones.

To a prospective off shore investor, the receptiveness of the host country to be invested in is an important consideration of the investment. This is especially true for Real Estate. Few countries in the world welcome foreigners so well, and have such magnanimous laws that allow for, and protect, the property rights of foreign investors the same as citizens. Costa Rica's combination of receptiveness to foreign investment, a stable political and economic system, and secure property rights, has made it a number one pick for foreign Real Estate investment.

Types of Ownership:

a. Fee Simple

The most comprehensive form of property ownership in Costa Rica is fee simple ownership. Fortunately for foreigners, the conditions for this type of ownership are the same for Costa Rica nationals as they are for foreigners. The concept of fee simple ownership gives the owner of the property the absolute right to materially own the property, use it, enjoy it, sell it, lease it, improve it (i.e. transformation), etc; subject only to conditions outlined in the Costa Rica Laws. Fee Simple also means that if the owner is obstructed from enjoying any of his/her rights to the property, he/she has the right to be made whole, in other words, have the property restored to its original condition. Buyers who purchase fee simple title have the most rights under the law to enjoy and use the property as they see fit.

b. Properties in Condominiums

In Costa Rica, there is a specific condominium law that in combination with other legal dispositions regulates all conditions required. In order to set up a condominium development it has its own bylaws containing all of the restrictions, limitations and privileges that can be enjoyed by individuals who purchase a condominium unit.

Ownership of property "in a condominium" is fee simple ownership. It is advised that you require the owner of the property to give you a copy of the condominium's bylaws to check for architectural guidelines, land use restrictions, and other limitations that may be placed on your unit. For the most part, a condominium's bylaws are designed to protect the integrity of a development.

III. Land Records

Costa Rica boasts an excellent property registration system to protect buyers from hidden claims. Most property searches can now be made "on-line", but occasionally older properties may still need to be researched in person at the national registry. In many ways, the Costa Rican system of maintaining property records is superior to the United States, where title insurance is an actual necessity due to the possibility of a problem arising after the sale. In Costa Rica, when a titled property is transferred to a new owner, any claim not registered at the time of transfer cannot be placed on the new owner, giving purchasers the assurance that they will not find any problems after the sale.

The property registration system includes a section for titles and a separate section for surveys. All documents are centered in the National Registry, where both the titles and

surveys are recorded. The records are kept in a central computer system as well as on microfilm, and in original form, and most recently in the "on-line" database. Duplicates of all records are updated daily, and sent to two separate fireproof vaults in separate locations from the registry. Any change in the status of a title, or any claim that might affect it, must also be noted on the title registry page, thus making it easy to verify.

Those who purchase land in Costa Rica should get professional advice from both a professional realtor and a qualified real estate attorney. Your attorney will perform a search of the title in the Registry, to confirm there are no liens or encumbrances on it, and to establish its proper ownership. He will also usually escrow funds for deposits and closing, and prepare the documents for the transfer. Once the deal is completed, the purchaser should receive documents to prove the sale was registered in the Registry.

While the purchase process may seem very simple, there are some key concepts with which a buyer should be familiar. The following will help in acquainting you with the most common **vocabulary** used in real state transactions in Costa Rica.

Folio Real: This is the identification number for properties in Costa Rica. It is the unique number assigned to each property to identify it and distinguish it from others. This number is comprised of three parts where the first number indicates the province, the second group of number is the number of the property itself and the last group number indicates how many owners the property has or has had. The property that you are buying **MUST** have this number in order for you to obtain clear title.

Transfer Deed: (escritura de traspaso): This is the document that contains all of the stipulations regarding the transfer of real estate. This document must be prepared by an attorney who must also be a Public Notary and the deed must be recorded in his/her Notary Book as well as at the Public Registry of Properties in San Jose. We guarantee that the deed will be registered the same day or next day after the close to insure the government recognizes your purchase immediately and no other party can claim before you.

Power of Attorney: This document authorizes a person to act on behalf of another to perform specific action such as the purchase of a property. This is especially useful for clients that wish to close on their property without returning to Costa Rica for the closing.

Survey Plan: (Cadastral Plan): In order to transfer or acquire a property, the respective survey must be recorded at the Public Registry with the municipality authorization. The official drawing of the property is validated through an approval process by the Public Registry of properties as well as by the municipality in which the property is located.

Public Notary: Attorney licensed by law to perform legal acts with public faith. A Public Notary is necessary in order to purchase a property. The Public Notary will be responsible for drafting the transfer deed.

Representatives: If buyer or seller will not attend the closing personally, an individual with power of attorney to represent either or both parties will be required the day of closing. Whenever buyer, seller or both are corporations, the legal representative shall appear to sign the deed and the legal document to justify his/her appearance. This document must be executed before a Public Notary.

Recording of the transfer deed: Upon the signature on the transfer deed, the Public Notary shall take the transfer deed to the Public Registry for its recording. The first phase is where the notary presents the deed to the public registry for its annotation. From this moment the property is protected against any third party interest. After the registry verifies that the deed has been prepared correctly, the second phase of registration begins and the property will be registered in the name of the new owner.

Acquiring Properties through direct transfer: This is the typical purchase process in which one or more individuals acquire a property in their personal name through the execution of a transfer deed of purchase executed before a Notary Public and then registered at the Costa Rica Public Registry.

IV. Property Taxes

The yearly taxes on properties in Costa Rica are very low. Yearly property taxes are one quarter of one percent (.0025%) of the declared value of the property.

Closing Costs

Closing costs for a sale include a land transfer tax, a stamp tax, and attorney fees, all of which are based on the price of the property being transferred. Closing costs and transfer taxes and fees typically run approximately 4.2% of the sale price, including the attorney fees for the transaction and registration. Closing costs are customarily split 50/50 between the buyer and seller. Costs of obtaining and registering a mortgage are always the buyer's responsibility.

Fees and Expenses Structure:

1. Notary Fees: Notaries are required by law to charge 1% of the purchase price as their legal fees.

Notarial Service:

A notary must execute the transfer deed. His/her job is to ensure that the will of the parties is met while ensuring that the process is done in accordance with the requirements of local legislation. Moreover, it is his/her duty to register the public deed at the Public Registry and ensure that said registration is completed at the earliest time possible.

2. Title Insurance: Title Insurance offered by Chicago Title Insurance will be 0.5% of the purchase price.

Title Insurance:

Title insurance is available but not necessary in Costa Rica due to the laws of civil code. The buyer's attorney should make a thorough title search prior to closing; after which, one can safely purchase the property. To pay a title company to perform the exact same task prior to closing is redundant and expensive. Additionally, when a property is transferred to a new owner in Costa Rica, all past claims that were not properly registered in the National Registry; cannot be placed on the new owner, thus eliminating the need to insure against past problems coming to light. Many properties are held by corporations (S.A), and in these cases, more thorough research is required by an attorney if one wants to assume the existing corporation, which can save money on closing costs. Escrows are usually held by one or both of the attorney's, to the sale.

3. Escrow Agent Fees: 0.08% minimum \$300.

Escrow

In Costa Rica, the placement of a deposit in escrow prevents the manipulation or mishandling of funds prior to closing. The escrow agent is a neutral third party with responsibility for issuing checks and disbursing payments. This system gives confidence to all interested parties (e.g. attorney, brokers, and seller) that they will receive funds at the specified time periods.

V. Purchase Contracts

Costa Rica's legal system is based on a "civil code" system, as opposed to a "common law" system like that of the United States. Under Costa Rica's civil code, there is less interpretation of the law by judges, because the civil code is more restrictive. For this reason, land contracts in Costa Rica are far less complicated, than the common law contracts most foreigners are used to.

Under the civil code system, the contract covers only what is not regulated by law, and thus can be very simple.

In Costa Rica a land purchase contract is often achieved through an "option to purchase". An option to purchase gives the buyer the right to purchase a described property in a set amount of time. Typically 10-20% of the purchase price is paid to the seller through a broker or attorney (after verifying the property can be legally transferred), for the purchase of the option. Most closings can take place in a matter of days if the property is already registered in the National Registry; however, most options are written for 30-90 days.

A purchase agreement or option to purchase under civil code has far less components but should include:

- The names and identification numbers of buyer and seller, whether held by a corporation or personally.
- A description of the property, which includes boundaries and size (if known at time of sale), and all numbers identifying the property in the National Registry. Properties being subdivided from a larger property can be sold based on agreed upon boundaries, or based on the square meters of land to be divided off.
- The price in either colones or dollars.
- The dates for the option period.
- Terms or mortgages to be recorded at closing, if any.
- An agreement to the payment of closing costs, usually split 50/50 between the parties.
- An agreement to provide for a registered survey, prior to closing, is usually the seller's responsibility.
- Any other agreements, or clauses.

VI. Financing

Most property sales in Costa Rica are paid in full at closing. Bank financing has recently

become available especially construction loans for homes, where banks are willing to loan 40-70% of the project's total value. Time frames for approval are lengthy, usually 2-3 months or more, and interest rates have been around prime plus 4-6 points. Short-term owner financing is more common and often the only realistic option. This typically requires at least half down with a 1-2 year note, which allows the purchaser time to finance through a bank, sell another asset, or find financing in their home country at a better rate.

VII. After the Sale

The purchaser should verify, through his broker or attorney, that the property was properly registered in the National Registry, and receive originals or copies of the documents showing all the proper stamps from the process.

Conclusion

The real estate buying process in Costa Rica need not be intimidating or confusing. By understanding the steps in the process and the pitfalls to avoid, a buyer can confidently purchase and enjoy property in Costa Rica.